

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ALICE B. WARREN, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:05CV2071 RWS
)	
CONTINENTAL TIRE N.A., INC.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before me on Defendant's Motion to Clarify the Court's Order on CTNA's Motion to Compel [#27]. The motion will be granted.

On February 13, 2006, I held a hearing on Continental Tire North America's ("CTNA") motion to compel. I granted the motion on the record, and I ordered Plaintiffs to produce the subject tire to CTNA's expert subject to one condition, i.e., that Plaintiffs expert had the right to be present when CTNA's experts performed any *destructive* testing on the tire. CTNA and Plaintiffs now disagree as to the scope of my ruling. Because of the disagreement, CTNA filed its motion to clarify.


CTNA's interpretation of my ruling is correct. Plaintiffs' expert has the right to be present where CTNA's experts perform any destructive testing on the tire, including taking the tire off of the rim. Plaintiffs' expert does not have the right to be present where CTNA's experts perform any non-destructive testing.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Clarify the Court's Order on CTNA's Motion to Compel [#27] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiffs shall produce the tire to CTNA subject to the conditions of this Order. Plaintiffs may remove the tire from the rim prior to shipping it to CTNA's facility, or they may ship it on the rim and Plaintiffs' expert may be present when CTNA removes the tire from the rim. If CTNA intends to do any testing that may alter or damage the tire, it must give Plaintiffs thirty days notice thereof and allow the Plaintiffs' expert to be present for the destructive testing. CTNA has the right to perform any non-destructive testing of the tire without Plaintiffs' expert being present.

Dated this 13th day of March, 2006.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE